

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DEMARIO DONTEZ WALKER, #L1625

PLAINTIFF

v.

CAUSE NO. 1:17CV27-LG-RHW

JOHNATHAN D. HUNT, et al.

DEFENDANTS

**ORDER OVERRULING OBJECTION TO MAGISTRATE JUDGE'S ORDER
DENYING REQUEST FOR AN EXPEDITED *SPEARS* HEARING**

BEFORE THE COURT is the [17] Appeal to U.S. District Court filed by Plaintiff Demario Donte Walker, who is proceeding *pro se*, with respect to the [11] Order entered by United States Magistrate Judge Robert H. Walker denying Plaintiff's request for "an expedited *Spears* Hearing." The Court has construed the Appeal as an objection to the Magistrate Judge's Order pursuant to Federal Rule of Civil Procedure 72. Having reviewed the Magistrate Judge's [11] Order and the record in this matter, the Court is of the opinion that Plaintiff's objection should be overruled because the Order is not contrary to law or clearly erroneous.

When a Magistrate Judge decides a nondispositive pretrial matter, such as Plaintiff's request for an expedited *Spears* Hearing, "[a] party may serve and file objections to the order within 14 days after being served with a copy." Fed. R. Civ. P. 72(a). This Court will then "consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law." *Id.*; *see also* Loc. Unif. Civ. R. 72(a). Plaintiff's objection was timely, even though incorrectly filed as an Appeal directed to this Court.

The Magistrate Judge found that Plaintiff's request for a *Spears* hearing was premature. (Order 1, ECF No. 11). Specifically, he stated that "[Plaintiff's] pleadings are subject to the screening provisions of the Prison Litigation Reform Act, 28 U.S.C. § 1915. Upon completion of the initial screening process, the Court will consider the matter of a *Spears* Hearing and determine how this case will proceed." (*Id.*). The Court is of the opinion that the Order is neither clearly erroneous nor contrary to law.

IT IS THEREFORE ORDERED AND ADJUDGED that the [17] Appeal to U.S. District Judge filed by Plaintiff Demario Dontez Walker, which the Court has construed as an objection made pursuant to Federal Rule of Civil Procedure 72, is **OVERRULED**.

SO ORDERED AND ADJUDGED this the 21st day of June, 2017.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE